

IN THE MATTER OF:

Essex Street Boarding Home)
c/o Edward Gould, Esq.)
Minsky & Mogel)**FINAL DECISION**
P.O. Box 917)
Bangor, ME 04402-0917)

This is the Department of Health and Human Services' Final Decision.

The Recommended Decision of Hearing Officer Hooper, dated December 9, 2005 and the responses and exceptions filed by the parties have been reviewed.

I hereby adopt the findings of fact. Moreover, with the exception of one error in the Recommended Decision, I am also adopting the Recommended Decision of the hearing officer.

The error appears on page 8 of the Recommended Decision. As the Department correctly points out in its exceptions and responses, the "preponderance of the evidence" standard applies in this case, not the judicial standard of "substantial evidence." In all other respects I adopt the hearing officer's Recommended Decision.

Therefore, I find that the Department was correct when it reclassified Kim Colson's wages to direct care and the reclassification of Judith A. Smith's wages to the Administrative and Management allowance during their FY 2003 audit of Essex Street Boarding Home.

DATED: 2/24/06 SIGNED: _____
BRENDA M. HARVEY, ACTING COMMISSIONER
DEPARTMENT OF HEALTH & HUMAN SERVICES

YOU HAVE THE RIGHT TO JUDICIAL REVIEW UNDER THE MAINE RULES OF CIVIL PROCEDURE, RULE 80C. TO TAKE ADVANTAGE OF THIS RIGHT, A PETITION FOR REVIEW MUST BE FILED WITH THE APPROPRIATE SUPERIOR COURT WITHIN 30 DAYS OF THE RECEIPT OF THIS DECISION.

WITH SOME EXCEPTIONS, THE PARTY FILING AN APPEAL (80B OR 80C) OF A DECISION SHALL BE REQUIRED TO PAY THE COSTS TO THE

**OFFICE OF ADMINISTRATIVE HEARINGS FOR PROVIDING THE
COURT WITH A CERTIFIED HEARING RECORD. THIS INCLUDES COSTS
RELATED TO THE PROVISION OF A TRANSCRIPT OF THE HEARING
RECORDING.**

cc: Jane Gregory, AAG, Office of the Attorney General
Herbert Downs, Division of Audit